



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

MAR 25 2014

Robert Heldt, President
Norquay Technology, Inc.
800 West Front Street
Chester, PA 19013

Re: Norquay Technology, Inc.
RCRA ID No. PAD 982 363 889
Request to Show Cause

Dear Mr. Heldt:

This letter is a follow-up to a compliance evaluation inspection conducted on July 30, 2013 by inspectors from the U.S. Environmental Protection Agency ("EPA") and the Pennsylvania Department of Environmental Protection ("PADEP") (the "Inspection" or "July 30, 2013 Inspection") at the Norquay Technology Incorporated ("NTI") owned and/or operated facility ("Facility") located at 800 West Front Street, Chester, Pennsylvania. The letter also considers subsequent correspondence between EPA and NTI requesting information related to the Inspection to determine compliance with the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6901, *et seq.*, the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273, and the authorized Commonwealth of Pennsylvania Waste Management Program, which it administers *in lieu* of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. Such subsequent correspondence includes EPA's November 8, 2013 information request letter and NTI's December 11, 2013 reply to that letter.

Effective January 30, 1986, the Commonwealth of Pennsylvania Hazardous Waste Regulations ("PaHWR") were authorized by the U.S. Environmental Protection Agency ("EPA") pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A. The PaHWR have been subsequently revised and re-authorized by EPA, including most recently on April 29, 2009 (effective date June 29, 2009). The PaHWR incorporate, with certain exceptions, federal hazardous waste management regulations that were in effect on the dates of such EPA authorizations (October 12, 2005 for the April 29, 2009 PaHWR authorization and as of July 6, 1999 for certain regulations regarding Universal Waste). The provisions of Pennsylvania's current authorized revised PaHWR, codified at 25 Pa. Code Chapters 260a-266a, 266b, and 268a-270a, have thereby become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a). *See* 25 Pa. Code § 260a.3(e).

Section 3008(a) of RCRA authorizes EPA to take enforcement action whenever it is

determined that a person is in violation of any requirement of EPA's regulations implementing RCRA Subtitle C, or any regulation of a state hazardous waste program, like Pennsylvania's, which has been authorized by EPA. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes the assessment of a civil penalty against any person who violates any requirement of Subtitle C of RCRA. Penalties are calculated in accordance with Section 3008(h) of RCRA, 42 U.S.C. § 6928(h), and the **RCRA Civil Penalty Policy** (June 2003) (Enclosure 1). Any person who violates any requirement of the authorized state management program and federal hazardous waste management regulations is subject to a penalty of up to \$25,000 for each day of violation, adjusted upwards to \$37,500 by the Civil Monetary Inflation Rule, 40 C.F.R. Part 19 (Inflation Adjusted Penalty Matrices - Enclosure 2).

Based upon the information currently available to the Agency, EPA believes that there is a sufficient basis for the issuance of an Administrative Complaint against NTI seeking the assessment of a civil penalty and containing a Compliance Order requiring the Facility to comply with RCRA. Prior to issuing an Administrative Complaint, EPA is providing NTI with the opportunity to confer with EPA to show cause as to any reasons why an Administrative Complaint should not be issued for the violations identified below. EPA is also inviting NTI to meet with EPA in person or by conference call to discuss the possibility of entering into a settlement of the violations with the Agency without litigation.

I. EPA FINDINGS OF POSSIBLE RCRA VIOLATIONS

EPA has identified the following possible RCRA violations at your Facility:

Violation #1: Owning and/or Operating a Hazardous Waste Treatment, Storage or Disposal Facility Without a Permit or Interim Status

From at least 2009 through the present, the Facility was a generator of hazardous waste. Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), requires, as does 25 Pa. Code § 270a.1, with exceptions not relevant to this matter, which incorporates by reference the federal regulations in 40 C.F.R. Part 270, including 40 C.F.R. § 270.1, that no person may own or operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility. During this time, EPA has determined that the Facility is a large quantity generator of hazardous waste for which the Facility was assigned RCRA ID No. PAD 982363889. During this time, NTI has continuously stored hazardous waste at its Facility. These hazardous wastes include, but are not limited to, hazardous wastes identified as D001 (characteristic for ignitability) and F003 and F005 (various types of spent non-halogenated solvents). Therefore, during this time period, NTI has owned and/or operated a hazardous waste treatment, storage or disposal facility.

NTI's Facility does not currently possess, and never has possessed, a hazardous waste permit to operate a hazardous waste treatment, storage or disposal facility, or qualified for Interim Status to operate such a facility as required by Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1. As set forth below, from at least August 6, 2010 to at least December 3, 2013, NTI has owned and/or operated a hazardous waste treatment, storage or disposal facility without a

hazardous waste permit or interim status in violation of Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1.

NTI may have attempted to comply with the generator exemption to the permit requirement, found in 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. Part 262, including 40 C.F.R. § 262.34. However, the Facility did not qualify for this exemption because of its failure to comply with all of the conditions for this exemption from at least August 6, 2010 to at least December 3, 2013. These conditions are listed in 40 C.F.R. § 262.34 and which are incorporated by reference by 25 Pa. Code § 262a.10. These requirements include the following:

1. Each container holding hazardous waste must remain closed during storage, except when it is necessary to add or remove waste, 40 C.F.R. § 262.34(a)(1)(i), incorporating 40 C.F.R. § 265.173(a);
2. When a container holding a hazardous waste is not in good condition, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition, 40 C.F.R. § 262.34(a)(1)(i), incorporating 40 C.F.R. § 265.171;
3. The date upon which each period of accumulation of hazardous waste began in that container must be clearly marked and visible for inspection, 40 C.F.R. § 262.34(a)(2);
4. While being accumulated on-site, each container must be labeled or marked clearly with the words "Hazardous Waste," 40 C.F.R. § 262.34(a)(3);
5. A generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, 40 C.F.R. § 262.34(c)(1);
6. Each container holding hazardous waste in a satellite accumulation area must remain closed during storage, except when it is necessary to add or remove waste, 40 C.F.R. § 262.34(c)(1)(i), incorporating 40 C.F.R. § 265.173(a);
7. While being stored in a satellite accumulation area, each container must be labeled with the words "Hazardous Waste" or with other words that identify the contents of the containers, 40 C.F.R. § 262.34(c)(1)(ii);
8. Facility personnel are required to undergo initial hazardous waste training with annual refresher courses, 40 C.F.R. § 262.34(a)(4), incorporating 40 C.F.R. § 265.16(c);
9. The Facility must maintain documentation of the job titles and description of each position related to hazardous waste management, the names of employees filling such jobs, a description of the type and amount of introductory and continuing training to be provided to such personnel, and records documenting the training taken by such personnel, 40 C.F.R. § 262.34(a)(4), incorporating 40 C.F.R. § 265.16(d); and

10. The contingency plan must list the names, addresses, and phone numbers of all persons qualified to act as emergency coordinator, 40 C.F.R. § 262.34(a)(4), incorporating 40 C.F.R. § 265.52(d).

NTI failed to qualify for this exemption. Specifically, as observed during EPA's July 30, 2013 Inspection, NTI:

1. Failed to keep containers holding hazardous waste closed during storage, specifically the storage of hazardous waste in open containers in the Final Warehouse;
2. Failed to keep containers holding hazardous waste in good condition or to transfer hazardous waste to containers in good condition, specifically the storage of older raw materials in corroded and broken containers in the Final Warehouse;
3. Failed to mark each container of hazardous waste with the date upon which each period of accumulation began, including:
 - a. the storage of two 55-gallon drums of distilled solvent with the material from the previous batch in the reactor (hazardous waste codes D001/F003/F005) in the Production Room;
 - b. the storage of two 55-gallon drums of hazardous mixed solvent waste (hazardous waste codes D001/F003/F005) in the Utility Room;
 - c. the storage of 16 drums of hazardous mixed solvent waste comprised of flammable liquids (hazardous waste codes D001/F003/F005) and flammable solid waste (hazardous waste codes F003/F005) in the Final Warehouse; and
 - d. the storage of several drums of organic solvent filtrates and organic solvents (hazardous waste codes D001/F003/F005) in the Final Warehouse.
4. Failed to label each container of hazardous waste with the word "Hazardous Waste," including:
 - a. the storage of two 55-gallon drums of distilled solvent with the material from the previous batch in the reactor (hazardous waste codes D001/F003/F005) in the Production Room;
 - b. the storage of 7 drums of hazardous mixed solvent waste comprised of flammable liquids (hazardous waste codes D001/F003/F005) and flammable solid waste (hazardous waste codes F003/F005) in the Final Warehouse; and
 - c. the storage of several drums of organic solvent filtrates and organic solvents (hazardous waste codes D001/F003/F005) in the Final Warehouse.
5. Failed to store hazardous waste in containers at or near the point of generation, including:
 - a. the storage of hazardous mixed solvent waste (hazardous waste codes D001/F003/F005) outside of the door of the R&D Lab when the waste is generated and stored in a 5-gallon container in a spill tray on the floor inside the R&D Lab; and
 - b. the storage of a methanol/water hazardous waste (hazardous waste codes D001/F003/F005) which is generated by the HPLC machines in the QC lab and

stored in a 4-liter bottle under a chemical hood in the QC lab, then emptied once a week into waste drums in the Utility Room.

6. Failed to keep containers holding hazardous waste in a satellite accumulation area closed during storage, including:
 - a. the storage of used gloves and other clean-up material in a metal can labeled as containing hazardous waste with the lid ajar in the doorway of the Production Room;
 - b. the storage of an aerosol can with a quick drying spray adhesive supplied from Uline (hazardous waste codes F003/F005) in an open, unlabeled 5-gallon bucket in the Maintenance Room; and
 - c. the storage of a methanol/water hazardous waste (hazardous waste codes D001/F003/F005) in a 4-liter bottle containing an open funnel under a chemical hood in the QC lab.
7. Failed to label each container of hazardous waste in a satellite accumulation area with the words "Hazardous Waste" or with other words that identify the contents of the containers, specifically the storage of an aerosol can with a quick drying spray adhesive supplied from Uline (hazardous waste codes F003/F005) in an open, unlabeled 5-gallon bucket in the Maintenance Room.
8. Failed to conduct RCRA initial and annual refresher training, including:
 - a. Failing to provide Robert Heldt with RCRA initial training from at least October 1, 2012 to at least December 3, 2013;
 - b. Failing to provide Thomas John and Dwayne Jones with RCRA annual refresher training in 2010;
 - c. Failing to provide Thomas John, Michael Santangelo, and Paul Hinkle with RCRA annual refresher training in 2011; and
 - d. Failing to provide Thomas John, Peter Litak, and Paul Hinkle with RCRA annual refresher training in 2012.
9. Failed to maintain documentation of the job titles and description of each position related to hazardous waste management; the names of employees filling such jobs; a description of the type and amount of introductory and continuing training to be provided to such personnel; and records documenting the training taken by such personnel, including:
 - a. Failing to maintain a list of the documented job title and written job description for each position related to hazardous waste management;
 - b. Failing to maintain the name of each employee assigned to each job required to receive training;
 - c. Failing to maintain a written description of the type and amount of both introductory and continuing training that will be given to each person assigned to a position related to hazardous waste management; and
 - d. Failing to maintain documentation of Markese Clay's attendance of refresher training in 2011 and 2012.

10. Failed to list the names, addresses, and phone numbers of all persons qualified to act as emergency coordinator in contingency plan, specifically the failure to list addresses for any of the emergency coordinators.

By virtue of these actions or failure to act, NTI failed to satisfy the exemption conditions set forth in 25 Pa. Code § 262a.10, incorporating 40 C.F.R. § 262.34(a). Therefore, from at least August 6, 2010 to at least December 3, 2013, NTI owned and/or operated a hazardous waste storage facility without a permit or interim status in violation of Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1.

Violation #2: Failure to Make Waste Determinations

25 Pa. Code § 262a.10, which incorporates 40 C.F.R. § 262.11, requires a person who generates a solid waste to determine whether it is a hazardous waste using one of the methods set forth in 40 C.F.R. § 262.11. Based on the results of the July 30, 2013 Inspection of the Facility and follow-up correspondence with NTI, EPA has determined that the Facility failed to make a timely hazardous waste determination for the following waste streams:

1. NTI generated laboratory chemicals in small quantities from research and development which it stored in several bottles and small containers on a rolling wheeled cart in the Acid Storage Room. NTI had not made a hazardous waste determination on the chemicals in these containers as of December 2013.

2. NTI stored organic solvent filtrates and organic solvents used to clean equipment in several containers of various size and conditions next to the primary hazardous waste area in the Final Warehouse. NTI did not make a hazardous waste determination on these chemicals until July 31, 2013, when the sampling results identified the waste as D001, F003, and F005 characteristic hazardous wastes.

Therefore, NTI was in violation of 25 Pa. Code § 262a.10, which incorporates 40 C.F.R. § 262.11, on July 30, 2013 when the Inspection uncovered the storage of several bottles and small containers of laboratory chemicals in small quantities from research and development on a rolling wheeled cart in the Acid Storage Room without first conducting a waste determination and again on July 19 and 26, 2013 when it began storing organic solvent filtrates and organic solvents used to clean equipment in several containers of various size and conditions next to the primary hazardous waste area in the Final Warehouse without first conducting a waste determination.

Violation #3: Failure to Keep Containers Closed

25 Pa. Code § 264a.1, which incorporates 40 C.F.R. §§ 264.171 and 264.173(a), requires that the owners and operators of a hazardous waste facility storing hazardous waste in containers must ensure that these containers be maintained in an adequate condition and must always be closed during storage, except when it is necessary to add or remove waste.

During the July 30, 2013 Inspection, the inspectors observed the storage of used gloves and other clean-up material in a metal can labeled as containing hazardous waste with the lid ajar in the doorway of the Production Room; the storage of an aerosol can with a quick drying spray adhesive supplied from Uline (hazardous waste codes F003/F005) in an open, unlabeled 5-gallon bucket in the Maintenance Room; the storage of hazardous waste in open, corroded, and broken containers in the Final Warehouse; and the storage of a methanol/water hazardous waste (hazardous waste codes D001/F003/F005) which is generated by the HPLC machines in the QC lab and stored in a 4-liter bottle containing an open funnel under a chemical hood in the QC lab. Therefore, on July 30, 2013, the Facility's failure to keep these containers in good condition and closed when it was not necessary to add or remove waste was a violation of 25 Pa. Code § 264a.1, incorporating 40 C.F.R. §§ 264.171 and 264.173(a).

Violation #4: Failure to Maintain an Adequate Contingency Plan

25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.52(d), requires that the Facility keep an updated contingency plan that lists the names, addresses, and phone numbers of all persons qualified to act as emergency coordinator.

During the July 30, 2013 Inspection, the inspectors observed that the Facility's contingency plan failed to list addresses for any of the emergency coordinators. Therefore, on July 30, 2013, the Facility's failure to maintain an adequate contingency plan was a violation of 25 Pa. Code § 264a.1, incorporating 40 C.F.R. § 264.52(d).

Violation #5: Failure to Maintain Hazardous Waste Training Records

25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.16(d), requires the owner or operator of a hazardous waste facility to maintain records of hazardous waste training which documents the training or job experience required to be given to, and completed by, facility personnel who do hazardous waste management, the job titles of such positions, and the names of the employees performing such tasks.

At the time of the July 30, 2013 Inspection, NTI violated 25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.16(d), by failing to maintain a list of the documented job title and written job description for each position related to hazardous waste management as required by 40 C.F.R. § 264.16(d)(1)-(2); failing to maintain the name of each employee assigned to each job required to receive training as required by 40 C.F.R. § 264.16(d)(1); failing to maintain a written description of the type and amount of both introductory and continuing training that will be given to each person assigned to a position related to hazardous waste management as required by 40 C.F.R. § 264.16(d)(3); and failing to maintain documentation of Markese Clay's attendance of refresher training in 2011 and 2012 as required by 40 C.F.R. § 264.16(d)(4).

Violation #6: Failure to Provide Hazardous Waste Training

25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.16(a) and (c), requires the owner or operator of a hazardous waste facility to provide RCRA initial and annual refresher training to each person employed in a position related to hazardous waste management.

Based on information obtained during the July 30, 2013 Inspection and in follow-up correspondence with NTI, the Facility violated this provision by failing to provide Robert Heldt with initial classroom instruction or on-the-job training to teach him to perform his duties in a way that ensures the Facility's compliance with the hazardous waste requirements from at least October 1, 2012 to at least December 3, 2013. The Facility also violated this provision by failing to provide annual refresher training to Thomas John and Dwayne Jones in 2010; Thomas John, Michael Santangelo, and Paul Hinkle in 2011; and Thomas John, Peter Litak, and Paul Hinkle in 2012. Therefore, NTI has violated 25 Pa. Code § 264a.1, which incorporates 40 C.F.R. § 264.16(c), from at least August 6, 2010 to at least December 3, 2013.

Violation #7: Failure to Maintain LDR Forms

25 Pa. Code § 268a.1, which incorporates by reference 40 C.F.R. § 268.7(a), requires the generator of hazardous waste to determine if the waste must be treated before it can be land disposed. If the waste does not meet the applicable treatment standards or if the generator chooses not to make the determination whether the waste must be treated, the generator must send with the initial shipment of waste to each treatment or storage facility a one-time written notice setting forth the various Generator Paperwork Requirements Table requirements ("LDR Form"). The generator must also maintain a copy of each LDR Form.

Based on the results of the July 30, 2013 inspection of the Facility and follow-up correspondence with NTI, EPA has determined that NTI failed to prepare, provide and/or maintain one-time LDR Forms for various spent non-halogenated solvents designated as F003 and F005 hazardous waste which NTI sent to Clean Harbors in El Dorado, Arkansas on various occasions in 2012 and, therefore, was in violation of 25 Pa. Code § 268a.1, which incorporates by reference 40 C.F.R. § 268.7(a).

Violation #8: Failure to Maintain Manifest Form from Receiving Facility or File Exception Form

25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. §§ 262.40 and 262.42, requires the generator of hazardous waste to keep a signed copy of a hazardous waste manifest from the designated facility that receives the waste for at least three years after the generator receives the disposal facility copy of the signed manifest. If no such copy from the disposal facility is received by the generator within thirty-five (35) days from the time the waste was received by the initial transporter, the generator must contact the designated disposal facility to find out the status of the waste shipment. In addition, the generator must file an Exception Report with the applicable EPA Region concerning the lack of receipt of such a signed manifest from

the disposal facility if not received by the generator within forty-five (45) days from the time the waste was received by the initial transporter.

During 2012, NTI generated hazardous waste that it sent to a designated disposal facility accompanied by a hazardous waste manifest on at least twelve separate occasions. At the time of EPA's July 30, 2013 inspection, NTI failed to maintain a signed copy of these manifests from the designated receiving facility and had not filed an Exception Report within forty-five days of the receipt of such wastes by the initial transporter for hazardous waste shipments accompanied by the following hazardous waste manifests: Manifest Nos.: 005239573, 005239572, 008533486, 005239346, 008543429, 008543531, 005239130, 004835048, 005239284, 005239281, 005239345, 005239344. Therefore, on July 30, 2013, NTI was in violation of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. §§ 262.40 and 262.42.

Violation #9: Failure to Store Universal Waste Lamps in Closed Containers

25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.13(d)(1), requires small quantity handlers of universal waste to store lamps in containers or packages that, *inter alia*, must remain closed except when placing such universal waste into or taking such universal waste out of such containers or packages.

At the time of the July 30, 2013 Inspection, NTI appears to have been a small quantity handler of universal waste and had three loose used lamps and four open boxes of used lamps in the Final Warehouse. The Facility's failure to keep the lamps in closed containers when no universal waste was being placed into or taken out of the containers was a violation of 25 Pa. Code § 266b.1, incorporating 40 C.F.R. § 273.13(d)(1).

Violation #10: Failure to Label Containers of Universal Waste Lamps

25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e), requires that each lamp or container in which such lamps are contained must be labeled with or clearly marked with one of the following phrases: "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)".

At the time of the July 30, 2013 Inspection, NTI had three unlabeled used lamps and four unlabeled boxes of used lamps in the Final Warehouse. The Facility's failure to label or clearly mark the lamps and containers was a violation of 25 Pa. Code § 266b.1, incorporating 40 C.F.R. § 273.14(e).

II. REQUEST TO SHOW CAUSE

EPA has determined that the issuance of an Administrative Complaint seeking assessment of a civil penalty concerning the aforesaid violations and issuance of a Compliance Order requiring compliance with the PaHWMR is the appropriate enforcement response in this matter.

Prior to issuing this Administrative Complaint, however, EPA is providing NTI the opportunity to confer with the Agency and show cause as to why an Administrative Complaint should not be issued by the Agency in this matter. **EPA is requesting that NTI contact the Agency within ten (10) calendar days of receipt of this letter to discuss this matter.** This opportunity will be made available at a meeting with EPA in Philadelphia on a mutually convenient date or by telephone conference. To facilitate settlement discussions and to supplement EPA's understanding of the compliance activities taken by NTI concerning these alleged violations, EPA requests that NTI submits such additional documentation which may be in its possession or control that identifies any and all measures taken to address the violations identified herein. If the compliance measures identified are planned or are on-going, please provide a schedule for when the compliance measures will be completed. Please send any and all supplemental information that you wish EPA representatives to review and consider in this matter to the attention of either:

Martin Matlin
U.S. Environmental Protection Agency, Region III
Office of Land Enforcement (3LC70)
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029;

or

James Heenehan
Sr. Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III
Office of Regional Counsel (3RC30)
1650 Arch Street
Philadelphia, Pennsylvania 19103.

Please contact Martin Matlin of the RCRA Office of Land Enforcement at (215) 814-5789, or, if represented by an attorney, have your counsel contact James Heenehan of the Office of Regional Counsel, US EPA Region III at (215) 814-2640, to discuss this matter further.

Please be advised, however, if this matter is not resolved within sixty (60) days after your receipt of this letter, EPA may proceed with the issuance of an Administrative Complaint.

If in the course of discussing this matter with the Agency, NTI intends to submit documents or information to EPA, please be advised that NTI is entitled to assert a claim of business confidentiality covering any part or all of the information NTI submits to EPA pursuant to this Request to Show Cause, in the manner described in 40 C.F.R. § 2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with 40 C.F.R. Part 2, Subpart B. Unless a claim of business confidentiality is asserted at the time the information is submitted to EPA, EPA may make this information available to the public without further notice to NTI.

NTI must also include as part of any submission of information or documentation to EPA pursuant to this Request to Show Cause the following certification signed and dated by a responsible corporate officer of your corporation:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this response to Information Request and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining or compiling the information, I believe that the submitted information is true, accurate, and complete. I recognize that there are significant penalties for submitting false and/or misleading information, including the possibility of fine and/or imprisonment."

Signature: _____
Printed Name: _____
Title: _____

This Request to Show Cause is not subject to review by the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520.

Additionally, please find enclosed a document entitled "Information Sheet" concerning Small Business Resources and the Small Business Regulatory Enforcement and Fairness Act ("SBREFA") (Enclosure 3). This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve NTI of its obligation to respond in a timely manner to an EPA enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve NTI's legal rights, NTI must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action.

Finally, please be advised that certain companies may be required to disclose to the Securities and Exchange Commission the existence of certain pending or known to be contemplated environmental legal proceedings (administrative or judicial) arising under Federal, State or local environmental laws. Please see the attached "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings" for more information about this SEC requirement (Enclosure 4).

If you have any other questions concerning this matter, you may contact Mr. Martin Matlin of my staff at 215-814-5789, or if your company is represented by counsel, please have him/her contact Mr. James Heenehan, the attorney assigned to this matter, at (215) 814-2640.

Sincerely,



Carol Amend, Associate Director
Office of Land Enforcement

Enclosures

- 1) *RCRA Civil Penalty Policy* (June 2003)
- 2) *Adjusted Penalty Policy Matrices based on the 2008 Civil Monetary Penalty Inflation Adjustment Rule*, dated November 16, 2009 (only the RCRA C revised penalty matrix and multi-day penalty charts included)
- 3) *SBREFA Information Sheet*
- 4) *Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings*

cc: Martin Matlin (3LC70)
James Heenehan (3RC30)